

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA,</b>	:	<b>CRIMINAL NO. _____</b>
	:	
	:	<b>DATE FILED: _____</b>
<b>v.</b>	:	
	:	<b>VIOLATIONS:</b>
<b>CHRISTON RUSH</b>	:	<b>18 U.S.C. § 371 (conspiracy to make false</b>
<b>ANDRE IRVINE</b>	:	<b>statements to federally licensed firearms</b>
	:	<b>dealer – 1 count)</b>
	:	<b>18 U.S.C. § 924(a)(1)(A) (false statements to</b>
	:	<b>federally licensed firearms dealer – 13</b>
	:	<b>counts)</b>
	:	<b>18 U.S.C. § 2 (aiding and abetting)</b>
	:	<b>Notice of additional factors</b>
	:	<b>Notice of forfeiture</b>

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Mike and Kate’s Sport Shoppe, located at 7492 Oxford Avenue, Philadelphia, Pennsylvania, possessed a federal firearms license (“FFL”) and was authorized to deal in firearms under federal laws.
2. Archery & Gun Outfitters, located at 674 Bethlehem Pike, Montgomeryville, Pennsylvania, possessed a federal firearms license (“FFL”) and was authorized to deal in firearms under federal laws.
3. Colosimo’s Inc., located 933 Spring Garden Street, Philadelphia, Pennsylvania, possessed a federal firearms license (“FFL”) and was authorized to deal in firearms under federal laws.

4. C&C Sports Center, located at 101 Geiger Road, Philadelphia, Pennsylvania, possessed a federal firearms license (“FFL”) and was authorized to deal in firearms under federal laws.

5. FFL holders are licensed, among other things, to sell firearms and ammunition. Various rules and regulations, promulgated under the authority of Chapter 44, Title 18, United States Code, govern the manner in which FFL holders are permitted to sell firearms and ammunition.

6. The rules and regulations governing FFL holders require that a person seeking to purchase a handgun fill out a Firearm Transaction Record, ATF Form 4473. Part of the Form 4473 requires that the prospective purchaser certify truthfully, subject to a crime punishable as a felony, that he is the “actual buyer” of the firearm. The Form 4473 contains one of the following two warnings using language explaining what it means to be an actual buyer, as opposed to a “straw purchaser,” that is, someone falsely posing as an actual buyer:

**a. WARNING** - The Federal firearms laws require that the individual filling out this form must be buying the firearm for himself or herself or as a gift. Any individual who is not buying the firearm for himself or herself or as a gift, who completes this form, violates the law. Example: Mr. Smith asks Mr. Jones to purchase a firearm for, Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. If Mr. Jones fills out this form, he will violate the law. . . .

**b.** For purposes of this form, you are the actual buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself . . . . You are also the actual buyer if you are acquiring the firearm as a legitimate gift for a third party. ACTUAL BUYER EXAMPLES: Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is NOT the actual buyer of the firearm and must answer “no” to question 12a. The licensee may

not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual buyer of the firearm and should answer “yes” to question 12a.

7. FFL holders are required to maintain a record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFL holder, including the buyer’s home address and date of birth.

8. From on or about April 10, 2001, to on or about October 16, 2002, in the Eastern District of Pennsylvania, defendants

**CHRISTON RUSH and  
ANDRE IRVINE**

conspired and agreed to commit an offense against the United States, that is, to knowingly make false statements with respect to the information required to be kept in the records of a federally licensed firearms dealer, in violation of Title 18, United States Code, Section 924(a)(1)(A).

**MANNER AND MEANS**

It was part of the conspiracy that:

9. Defendant ANDRE IRVINE purchased firearms at the request of, and on behalf of, defendant CHRISTON RUSH.

10. Defendants ANDRE IRVINE and CHRISTON RUSH entered federally licensed gun stores, where defendant CHRISTON RUSH instructed defendant ANDRE IRVINE which firearm to purchase and gave defendant ANDRE IRVINE money to purchase the firearm.

11. Defendant ANDRE IRVINE paid the firearms dealers for the firearm, completed the required Form 4473s, in which he falsely represented that he was the actual buyer, and, after purchasing the firearms, gave them to defendant CHRISTON RUSH.

### **OVERT ACTS**

In furtherance of the conspiracy, defendants ANDRE IRVINE and CHRISTON RUSH committed the following overt acts, among others, in the Eastern District of Pennsylvania:

On or about the dates set forth below, and at the federally licensed firearms dealers identified below, defendant ANDRE IRVINE purchased firearms at the request of, and on behalf of, defendant CHRISTON RUSH, and completed the Form 4473s, as described below:

Overt Act	Date	FFL	Firearm Purchased
<b>1</b>	<b>4/10/01</b>	<b>C&amp;C Sports Center 101 Geiger Road Philadelphia, PA</b>	<b>H&amp;K, USP .40 cal. pistol serial number 26-029668</b>
<b>2</b>	<b>11/9/01</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA</b>	<b>Cobray, M12 .380 Cal. pistol serial number 120015065</b>
<b>3</b>	<b>5/28/02</b>	<b>C&amp;C Sports Center 101 Geiger Road Philadelphia, PA</b>	<b>Beretta, 92FS 9mm pistol serial number BER451884Z</b>
<b>4</b>	<b>5/30/02</b>	<b>C&amp;C Sports Center 101 Geiger Road Philadelphia, PA</b>	<b>Intratec, Scorpion .22 cal. pistol serial number 009712</b>
<b>5</b>	<b>6/29/02</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA</b>	<b>Ruger, P95 9mm pistol serial number 31220245</b>
<b>6</b>	<b>8/14/02</b>	<b>Archery &amp; Gun Outfitters 674 Bethlehem Pike, Montgomeryville, Pennsylvania</b>	<b>Glock, Model 21 .45 cal. pistol serial number BDN394US</b>

<b>7</b>	<b>10/16/02</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA</b>	<b>Glock, Model 19 9mm pistol serial number EPE841US</b>
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On or about October 16, 2002:

8. Defendant CHRISTON RUSH entered Mike and Kate's Sport Shoppe with defendant ANDRE IRVINE.

All in violation of Title 18, United States Code, Section 371.

**COUNTS TWO THROUGH EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 7, and 9 through 11, of Count One are realleged here.
2. On or about the dates listed below, in the Eastern District of Pennsylvania, defendants

**CHRISTON RUSH and  
ANDRE IRVINE,**

in connection with the acquisition of the firearms listed below, from the FFL holders listed below, knowingly made, and aided and abetted and willfully caused the making of, false statements and representations with respect to the information required to be kept in the FFL holders' records, in that, defendant ANDRE IRVINE falsely represented that he was the actual buyer of the firearms described below, when as defendants ANDRE IRVINE and CHRISTON RUSH knew, those representations were false and fictitious:

Count	Date	FFL	Firearm Purchased
2	4/10/01	C&C Sports Center 101 Geiger Road Philadelphia, PA	H&K, USP .40 cal. pistol serial number 26-029668
3	11/9/01	Mike and Kate's Sport Shope 7492 Oxford Avenue Philadelphia, PA	Cobray, M12 .380 Cal. pistol serial number 120015065
4	5/28/02	C&C Sports Center 101 Geiger Road Philadelphia, PA	Beretta, 92 FS 9mm pistol serial number BER451884Z

<b>5</b>	<b>5/30/02</b>	<b>C&amp;C Sports Center 101 Geiger Road Philadelphia, PA</b>	<b>Intratec, Scorpion .22 cal. pistol serial number 009712</b>
<b>6</b>	<b>6/29/02</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA</b>	<b>Ruger, P95 9mm pistol serial number 31220245</b>
<b>7</b>	<b>8/14/02</b>	<b>Archery &amp; Gun Outfitters 674 Bethlehem Pike, Montgomeryville, Pennsylvania</b>	<b>Glock, Model 21 .45 cal. pistol serial number BDN394US</b>
<b>8</b>	<b>10/16/02</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA</b>	<b>Glock, Model 19 9mm pistol serial number EPE841US</b>

All in violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

**COUNTS NINE THROUGH FOURTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1, 3, and 5 through 7 of Count One are realleged here.
2. On or about the dates listed below, in the Eastern District of Pennsylvania,

defendant

**ANDRE IRVINE,**

in connection with the acquisition of the firearms listed below, from the FFL holders listed below, knowingly made, and aided and abetted the making of, false statements and representations with respect to the information required to be kept in the FFL holders' records in that defendant ANDRE IRVINE falsely represented on the Form 4473 that he was the actual buyer of the firearms described below, when as defendant ANDRE IRVINE knew, those representations were false and fictitious:

Count	Date	FFL	Firearm Purchased
9	2/11/02	Colosimo's Inc. 933 Spring Garden Street Philadelphia, PA	Ruger P95DC 9mm pistol serial number 312-92063
10	10/8/02	Mike and Kate's Sport Shope 7492 Oxford Avenue Philadelphia, PA	Cobray PM-12 .380 cal. pistol serial number 120015316
11	10/11/02	Mike and Kate's Sport Shope 7492 Oxford Avenue Philadelphia, PA	Taurus PT-145 .45 cal. pistol serial number NUI87800  Smith and Wesson 40V .40 cal. pistol serial number PBA3236

<b>12</b>	<b>10/25/02</b>	<b>Mike and Kate's Sport Shoppe 7492 Oxford Avenue Philadelphia, PA m&amp;k</b>	<b>KelTec P-11 9mm pistol serial number 12960</b>  <b>High Point C-9 9mm pistol serial number P220580</b>
<b>13</b>	<b>12/27/02</b>	<b>Colosimo's Inc. 933 Spring Garden Street Philadelphia, PA</b>	<b>Taurus PT-58 .380 cal. pistol serial number KNJ-06893</b>
<b>14</b>	<b>4/30/03</b>	<b>Colosimo's Inc. 933 Spring Garden Street Philadelphia, PA</b>	<b>Taurus PT-140 .40 cal. pistol serial number SVE-91219</b>

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

**NOTICE OF ADDITIONAL FACTORS**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. In committing the offenses charged in Counts One through Eight, defendant CHRISTON RUSH committed offenses involving 3 to 7 firearms, as described in U.S.S.G. § 2K2.1(b)(1)(A).

2. In committing the offenses charged in Counts One through Fourteen, defendant ANDRE IRVINE committed offenses involving 8 to 24 firearms, as described in U.S.S.G. § 2K2.1(b)(1)(B).

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

As a result of the violations of Title 18, United States Code, Sections 371 and 924(a)(1)(A) set forth in this indictment, defendants

**CHRISTON RUSH and  
ANDRE IRVINE**

shall forfeit to the United States of America, pursuant to Title 18 United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c), all firearms and ammunition involved in the commission of these offenses, as listed in this indictment.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, section 924(d).

**A TRUE BILL:**

\_\_\_\_\_  
**FOREPERSON**

\_\_\_\_\_  
**PATRICK L. MEEHAN**  
*United States Attorney*